

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:19-cv-00599-RJC
(3:18-cr-00075-RJC-DCK-1)**

SURRELL M. DUFF,)	
)	
Petitioner,)	
)	
vs.)	<u>ORDER</u>
)	
UNITED STATES OF AMERICA,)	
)	
Defendants.)	
<hr/>)	

THIS MATTER comes before the Court on Petitioner’s “Motion to Reconsider Motion to Compel,” which the Court construes as a motion to alter or amend a judgment under Federal Rule of Civil Procedure 59(e). [CV Doc. 21].¹

On February 21, 2018, Pro Se Petitioner Surrell M. Duff (“Petitioner”) was charged in a Bill of Indictment with one count of crack cocaine trafficking conspiracy in violation of 21 U.S.C. §§ 841(a)(1) and 846 (Count One) and one count of possession with intent to distribute crack cocaine in violation of 21 U.S.C. §§ 841(a)(1) and 841(b)(1)(C) (Count Two). [CR Doc. 3: Indictment]. Petitioner and the Government entered into a Plea Agreement pursuant to which Petitioner agreed to plead guilty to Count One and the Government agreed to dismiss the remaining charge in the Indictment. [CR Doc. 17: Plea Agreement]. Petitioner was sentenced to a term of imprisonment of 120 months. [CR Doc. 29 at 2: Judgment]. Petitioner did not directly appeal his conviction or sentence. On November 5, 2019, Petitioner filed a Pro Se Motion to Vacate, Set

¹ Citations to the record herein contain the relevant document number referenced preceded by either the letters “CV,” denoting that the document is listed on the docket in the civil case file number 3:19-cv-00599-RJC, or the letters “CR,” denoting that the document is listed on the docket in the criminal case file number 3:18-cr-00075-RJC-DCK-1.

Aside, or Correct Sentence under 28 U.S.C. § 2255. [CV Doc. 1]. The Court denied and dismissed Petitioner's motion to vacate on the merits [CV Doc. 6] and denied Petitioner's motion to reconsider that Order, which the Court construed as an unauthorized, successive petition [CV Doc. 14]. Petitioner then moved the Court to compel his attorney in his criminal proceedings "to send a copy of his entire case file ... so he can pursue his appeal to the Supreme Court." [Doc. 19]. The Court denied the motion without prejudice to Petitioner bringing this motion in his related criminal proceedings. The Court noted that Petitioner is unrepresented in this civil proceeding and the relief he seeks should be achieved, if at all, in his criminal case. [Doc. 20].

Petitioner now moves the Court "to reconsider and grant the motion to compel." [Doc. 21 at 1]. Petitioner argues that, "[t]he Court misapprehended the applicable legal principles and failed to apply the law of the case doctrine." [Id. at 2]. Petitioner, however, does not say why he chose to ignore the Court's direction to simply file a motion to compel in his criminal proceeding. [See id.]. The Court will deny Petitioner's motion to reconsider and again directs Petitioner to file a motion to compel in his criminal proceeding to obtain the documents he seeks from his criminal defense attorney.²

IT IS, THEREFORE, ORDERED that Plaintiff's motion [Doc. 21] is **DENIED**.

Signed: July 2, 2021



Robert J. Conrad, Jr.
United States District Judge



² The Court notes that Petitioner has a motion to compel pending in his criminal proceeding seeking other materials from his criminal attorney, in any event. [CR Doc. 51].